

AMENDED IN ASSEMBLY JUNE 11, 2002

AMENDED IN SENATE APRIL 1, 2002

AMENDED IN SENATE MARCH 21, 2002

**SENATE BILL**

**No. 1463**

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**Introduced by Senator Machado**

February 15, 2002

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An act to amend Section 8617 of the Business and Professions Code, relating to pest control.

LEGISLATIVE COUNSEL'S DIGEST

SB 1463, as amended, Machado. Structural pest control.

Existing law authorizes the Structural Pest Control Board to regulate the practice of structural pest control operators in this state. Existing law, among other things, authorizes the board or a county agricultural commissioner to impose administrative fines or temporarily suspend a structural pest control licensee or registered company from working in a county.

This bill would also authorize the board or a county agricultural commissioner to require the licensee to attend a board-approved course for specified violations.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 8617 of the Business and Professions  
2 Code is amended to read:

1     8617. (a) The board or county agricultural commissioners,  
2 when acting pursuant to Section 8616.4, may suspend the right of  
3 a structural pest control licensee or registered company to work in  
4 a county for up to three working days or, for a licensee, registered  
5 company, or an unlicensed individual acting as a licensee, may  
6 levy an administrative fine up to one thousand dollars (\$1,000) or  
7 direct the licensee to attend and pass a board-approved course of  
8 instruction at a cost not to exceed the administrative fine, or both,  
9 for each violation of this chapter, or any regulations adopted  
10 pursuant to this chapter, or Chapter 2 (commencing with Section  
11 12751), Chapter 3 (commencing with Section 14001), Chapter 3.5  
12 (commencing with Section 14101), or Chapter 7 (commencing  
13 with Section 15201) of Division 7 of the Food and Agricultural  
14 Code, or any regulations adopted pursuant to those chapters,  
15 relating to pesticides. Fines collected shall be paid to the Education  
16 and Enforcement Account in the Structural Pest Control  
17 Education and Enforcement Fund. Suspension may include all or  
18 part of the registered company's business within the county based  
19 on the nature of the violation, but shall, whenever possible, be  
20 restricted to that portion of a registered company's business in a  
21 county that was in violation.

22     (b) *A licensee who takes a course pursuant to this section shall*  
23 *not be awarded continuing education credit for that course.*

24     (c) Before a suspension action is taken or a fine levied, the  
25 person charged with the violation shall be provided a written  
26 notice of the proposed action, including the nature of the violation  
27 and the amount of the proposed fine or suspension. The notice of  
28 proposed action shall inform the person charged with the violation  
29 that if he or she desires a hearing before the commissioner issuing  
30 the proposed action to contest the finding of a violation, that  
31 hearing shall be requested by written notice to the commissioner  
32 within 20 days of the date of issuance of the written notice of  
33 proposed action.

34     A notice of the proposed action that is sent by certified mail to  
35 the last known address of the person charged shall be considered  
36 received even if delivery is refused or the notice is not accepted at  
37 that address.

38     If a hearing is requested, notice of the time and place of the  
39 hearing shall be given at least 10 days before the date set for the  
40 hearing. At the hearing, the person shall be given an opportunity

1 to review the commissioner's evidence and a right to present  
2 evidence on his or her own behalf. If a hearing is not requested  
3 within the prescribed time, the commissioner may take the action  
4 proposed without a hearing.

5 ~~(e)~~

6 (d) If the person upon whom the commissioner imposed a fine  
7 or suspension requested and appeared at a hearing before the  
8 commissioner, the person may appeal the commissioner's decision  
9 to the Disciplinary Review Committee and shall be subject to the  
10 procedures in Section 8662.

11 ~~(d)~~

12 (e) If a suspension or fine is ordered, it may not take effect until  
13 20 days after the date of the commissioner's decision if no appeal  
14 is filed. If an appeal pursuant to Section 8662 is filed, the  
15 commissioner's order shall be stayed until 20 days after the  
16 Disciplinary Review Committee has ruled on the appeal.

17 ~~(e)~~

18 (f) Failure of a licensee or registered company to pay a fine  
19 within 30 days of the date of assessment or to comply with the  
20 order of suspension, unless the citation is being appealed, may  
21 result in disciplinary action being taken by the board.

22 Where a citation containing a fine is issued to a licensee and it  
23 is not contested or the time to appeal the citation has expired and  
24 the fine is not paid, the full amount of the assessed fine shall be  
25 added to the fee for renewal of that license. A license shall not be  
26 renewed without payment of the renewal fee and fine.

27 Where a citation containing a fine is issued to a registered  
28 company and it is not contested or the time to appeal the citation  
29 has expired and the fine is not paid, the board shall not sell to the  
30 registered company any inspection stamps, notice of completion  
31 stamps, or pesticide use stamps until the assessed fine has been  
32 paid.

33 ~~(f)~~

34 (g) Once final action pursuant to this section is taken, no other  
35 administrative or civil action may be taken by any state  
36 governmental agency for the same violation. However, action  
37 taken pursuant to this section may be used by the board as evidence  
38 of prior discipline, and multiple local actions may be the basis for  
39 statewide disciplinary action by the board pursuant to Section  
40 8620. A certified copy of the order of suspension or fine issued

1 pursuant to this section or Section 8662 shall constitute conclusive  
2 evidence of the occurrence of the violation.

3 ~~(g)~~

4 *(h)* Where the board is the party issuing the notice of proposed  
5 action to suspend or impose a fine pursuant to subdivision (a) of  
6 this section, “commissioner” as used in subdivisions ~~(b), (c), and~~  
7 ~~(d)~~ *(c), (d), and (e)* includes the board’s registrar.

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